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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,092	01/17/2002	Bruce DeFoor	X-13281	6662
7590	12/03/2003		EXAMINER	
E. KENT DANIELS, JR. FAY, SHARPE, FAGAN, MINNICH & mckee, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			LUONG, SHIAN TINH NHAN	
			ART UNIT	PAPER NUMBER
			3728	
DATE MAILED: 12/03/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/050,092	Defoor	
	Examiner	Art Unit	
	Shian T Luong	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10/20/03.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-33 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 20-33 is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). _____

16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 20) Other: _____

Continuation Sheet (PTO-326)

Application No.

The drawings have been received.

Art Unit: 3728

Response to Amendment

1. The amendment filed on 10/20/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: In claim 2, line 2, the phrase "from about ¼" to about ¾" and a length of from about 1-1/2" to about 4-1/2".

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. 112, first paragraph, and 37 C.F.R. 1.71(a) and (b) as failing to provide an adequate written description of the invention, and failing to adequately teach how to make and/or use the invention. The phrase "from about ¼" to about ¾" and a length of from about 1-1/2" to about 4-1/2"" lacks sufficient disclosure in the original specification. The specification only discloses the pocket having a depth of ½ inch, but does not disclose the length of the pocket. Clarification is required and no new matter is permitted.

3. Claim 2 is rejected under 35 U.S.C. 112, first paragraph, for the reasons set forth in the objection to the specification.

Art Unit: 3728

4. Claim 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "from about $\frac{1}{4}$ " to about $\frac{3}{4}$ " and a length of from about 1-1/2" to about 4-1/2"" is indefinite because the specification only disclose $\frac{1}{2}$ inch for the depth but not the range from $\frac{1}{4}$ to $\frac{1}{2}$ and $\frac{1}{2}$ to $\frac{3}{4}$. Also, the specification does not have support for the length of the pocket. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 12-13 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Alvite (US 6,484,881). Alvite discloses a carrier comprising a body of flexible carrier tape having opposite ends, sides and inner and outer surfaces. A plurality of pockets extending into the body from the inner surface toward the outer surface. Each pocket has a bottom wall spaced from the inner surface, end walls extending vertically from the inner surface to the bottom wall and spaced apart in the direction between sides and side walls extending vertically from the inner surface to the bottom wall and spaced apart in the direction between the ends. Although Alvite does not disclose that the width and a depth equal to the width, it would have been obvious to provide the appropriate pocket size for the intended article. In addition, the particular size of a

Art Unit: 3728

package generally will not support patentability. See In re Rose, 105 USPQ 237, 240 (CCPA 1955). A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

7. Claims 1-4 and 12-13 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Rode in view of Alvite or Dembicks (Des. 424,807). Rode discloses a carrier for elongated object comprising a body of flexible material with sides and ends. The carrier is rollable in the direction between the ends to form a roll enclosing the pockets with the outer surface of the body. Rode discloses a plurality of rows for receiving the elongated articles but does not show more than one pocket on each row with end walls or sidewalls. However, Alvite discloses a carrier comprising a body of flexible carrier tape having opposite ends, sides and inner and outer surfaces. A plurality of pockets extending into the body from the inner surface toward the outer surface. Each pocket has a bottom wall spaced from the inner surface, end walls extending vertically from the inner surface to the bottom wall and spaced apart in the direction between sides and side walls extending vertically from the inner surface to the bottom wall and spaced apart in the direction between the ends. Dembicks also suggests, as an example, a plurality of pockets on a tray. It would have been obvious in view of Alvite and Dembicks at the time of the invention to provide more than one pocket on each row to store additional elongated objects. In addition, the particular size of a package generally will not support patentability. See In re Rose, 105 USPQ 237, 240 (CCPA 1955). A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

Art Unit: 3728

8. Claims 5-6 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above, further in view of Kroop et al (US 5,388,689). Rode does not disclose the use of separate polymeric and fabric material on the bottom side of the resilient polymeric material. Kroop et al. is cited to show that a container with a plurality of pockets in a midportion of the container with a vinyl layer on the bottom of the pockets and a nylon fabric on the outer surface of the vinyl layer to provide protection and some rigidity to the container. It would have been obvious to provide the combination of the flexible vinyl and nylon layers on the bottom surface of the pocket to provide extra protection for the elongated objects.

9. Claims 7-8 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Allen (US 5,320,223) and Gutentag (US 5,524,765). Rode does not show the pocket extending through the strip with flexible sheet cover the bottom side of the strip. But Allen teaches as an example of a device with a plurality of pockets wherein the pockets extend through the strip 22. A flexible film 26 and another flexible layer 20 on a bottom portion of the flexible layer cover the strip. Guetentag is also cited to show the lamination of a top, middle and bottom layer. The top layer has a plurality of pockets wherein the pockets extend through the top layer. It would have been obvious to extend through the strip to form the pockets so as to provide a larger pocket compartment.

10. Claims 9-10 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 7, further in view of Kroop et al (US 5,388,689). Rode as modified above does not disclose the use of separate polymeric and fabric material on the bottom side of the resilient polymeric material. Kroop et al. is cited to show that a container

Art Unit: 3728

with a plurality of pockets in a midportion of the container with a vinyl layer on the bottom of the pockets and a nylon fabric on the outer surface of the vinyl layer to provide protection and some rigidity to the container. It would have been obvious to provide the combination of the flexible vinyl and nylon layers on the bottom surface of the pocket to provide extra protection for the elongated objects.

11. Claim 11 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Stricklin et al. (Des. 323,065) and Hunt (US 5,427,239). Rode fails to show a carrier with a fabric layer that extends beyond the end edges of the flexible top layer and also lacks a fastening means. However, Stricklin et al. teaches a use of a pocket portion that has end edges shorter than the fabric layer. The carrier has a Velcro strap on the fabric layer to secure the case in a rolled position. Similarly, Hunt teaches a carrier with a Velcro strap or ties 130 to secure a carrier in the rolled position. Hence, one of ordinary skill in the art would readily recognize the use of strap or strips on the outer portion to secure the carrier when it is in a storage position.

12. Claim 14 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 13, further in view of Stricklin et al. (Des. 323,065) and Hunt (US 5,427,239). Rode fails to show a carrier with a fabric layer that extends beyond the end edges of the flexible top layer and also lacks a fastening means. However, Stricklin et al. teaches a use of a pocket portion that has end edges shorter than the fabric layer. The carrier has a Velcro strap on the fabric layer to secure the case in a rolled position. Similarly, Hunt teaches a carrier with a Velcro strap or ties 130 to secure a carrier in the rolled

Art Unit: 3728

position. Hence, one of ordinary skill in the art would readily recognize the use of strap or strips on the outer portion to secure the carrier when it is in a storage position.

13. Claim 15-16 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above, further in view of Rode and Kroop et al (US 5,388,689) and Alvite or Dembicks (Des. 424,807). Rode discloses a carrier for elongated object comprising a body of flexible material with sides and ends. The carrier is rollable in the direction between the ends to form a roll enclosing the pockets with the outer surface of the body. Rode discloses a plurality of rows for receiving the elongated articles but does not show more than one pocket on each row with end walls or sidewalls. However, Alvite discloses a carrier comprising a body of flexible carrier tape having opposite ends, sides and inner and outer surfaces. A plurality of pockets extending into the body from the inner surface toward the outer surface. Each pocket has a bottom wall spaced from the inner surface, end walls extending vertically from the inner surface to the bottom wall and spaced apart in the direction between sides and side walls extending vertically from the inner surface to the bottom wall and spaced apart in the direction between the ends. Dembicks also suggests, as an example, a plurality of pockets on a tray. Rode does not disclose the use of separate polymeric and fabric material on the bottom side of the resilient polymeric material. Kroop et al. is cited to show that a container with a plurality of pockets in a midportion of the container with a vinyl layer on the bottom of the pockets and a nylon fabric on the outer surface of the vinyl layer to provide protection and some rigidity to the container. It would have been obvious to provide the combination of the flexible vinyl and nylon layers on the bottom surface of the pocket to provide extra protection for the elongated objects. It would have been obvious in view of Alvite and Dembicks at the time of the invention to provide more than

Art Unit: 3728

one pocket on each row to store additional elongated objects. In addition, the particular size of a package generally will not support patentability. See *In re Rose*, 105 USPQ 237, 240 (CCPA 1955). A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

14. Claims 17-19 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 16, further in view of Stricklin et al. (Des. 323,065) and Hunt (US 5,427,239). Rode fails to show a carrier with a fabric layer that extends beyond the end edges of the flexible top layer and also lacks a fastening means. However, Stricklin et al. teaches a use of a pocket portion that has end edges shorter than the fabric layer. The carrier has a Velcro strap on the fabric layer to secure the case in a rolled position. Similarly, Hunt teaches a carrier with a Velcro strap or ties 130 to secure a carrier in the rolled position. Hence, one of ordinary skill in the art would readily recognize the use of strap or strips on the outer portion to secure the carrier when it is in a storage position.

Allowable Subject Matter

15. Claims 20-33 are allowable.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3728

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08. **The Group clerical receptionist number is (703) 308-1148 or the Tech Center 3700 Customer Service Center number is (703) 306-5648.**

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Donna Monroe at (703) 308-2209.

For applicant's convenience, the formal FAX number is (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Art Unit: 3728

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (703) 308-2039. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST.

STL
November 30, 2003



Primary Examiner
Shian Luong
Art Unit 3728